It is true that, while the Physiocrats used this weapon of the single tax to consolidate property, Henry George wishes to use it to destroy property. But what difference does this make? It is still the same weapon used for different ends.

To avoid all misunderstanding, I should have said simply this: the Physiocrats were "single-taxists," but they were not "Nationalists."

CHARLES GIDE.

MONTPELLIER, April, 1891.

THE DRIVEN-WELL PATENT.

Mr. Chauncey Smith, in his very interesting article in the October number of this *Journal* entitled "A Century of Patent Law," is in error in reference to one statement about the driven well; and that is where he states that the fact that the well had been in public use more than two years before Green filed his application for a patent "was not known to the Patent Office while the application was pending."

When Green filed his application, two patents had already been granted,—one to Suggett, March 29, 1864, and one to Mudge, October 24, 1865. Mudge soon after applied for a reissue of his patent, which reissue was pending when Green's application was filed March 14, 1866; and, as a result, an interference was declared between all three. The testimony taken and filed in the Patent Office shows that Mudge put down the first well in September, 1861; that he put down another for a Mr. Seymour in 1861; in 1862 he put down some six or seven, in 1863 some twenty, and in 1864 eleven,—making in all thirty-four or thirty-five wells in public use from two to five years before Green's application was filed, besides others put down by Suggett. All this was fully shown by the testimony filed in the Patent Office, so that the office was well aware of that fact.

Up to that time, however, it had always been held that the public use must have been without the knowledge or consent of the inventor or applicant, in order to work a forfeiture of

his right to a patent; and hence, as Mr. Smith says, the office would have issued the patent even with the knowledge of the public use before it, provided such use was by some other party and without the consent or knowledge of the inventor. When the case came before the Supreme Court for the last time, it was held that more than two years' public use by any one, whether with the consent or knowledge of the inventor or not, was an absolute bar to the grant of a patent, and on that ground held the patent to be void.

There were many curious facts in connection with that case. As above shown, the office not only had before it proof of nearly five years' public use when it issued the patent to Green, but it also had proof that it was with Green's knowledge and consent; for the first well put down by Mudge was at Green's residence and at his request. Moreover, the office records show that a patent was granted in 1840 to another party for the same method,— that is, by forcing the tube into the ground without drilling or making any previous hole; and in 1828 another patent was granted to still another party for the same manner of forcing down the tube, a hole being made in the earth by a pointed rod, and, when rock was encountered, by an expanding drill that would pass down inside the pipe and then expand and cut a hole large enough for the pipe to follow. These patents were not cited by the office; nor were they set up in any of the suits except the last, and only one of them then.

The litigation was equally strange. There were nine decisions in the Circuit Courts and four in the Supreme Court, the patent being sustained in all except the last. Another remarkable fact was that in his original patent Green described his method to be by first driving down a rod to make a hole, then withdrawing the rod and inserting the tube, and the claim in his original patent was limited to that precise method. More than three years after, and after others had discovered that the tube could be driven without first making a hole, Green reissued his patent, and changed the description and claim so as to cover the driving of the tube itself without first making a hole; and it was that reissued patent that the Supreme Court sustained when attacked, on the ground that the

reissue was broader than the original patent or invention,— a decision that is difficult of reconciliation with the decisions of that court on reissued patents before and since.

It is true, as Mr. Smith shows, that that patent has done much to create hostility to our patent system,— more, perhaps, than any other event that has taken place in connection with the system since its first establishment; and we all rejoice that it is now out of the way.

W. C. DODGE.

WASHINGTON, D.C.

RECENT PROGRESS OF PROFIT-SHARING ABROAD.

The past three years have witnessed remarkable progress in the adoption of profit-sharing in Great Britain. For some years after 1875 the adverse influence of the famous Whitwood colliery experience stood in the way of further experiments. In his work on *Profit-sharing between Employer and Employee*, Mr. Gilman, after noting the "small number of private firms in England now conducted on the profit-sharing plan," went on to say: "A turn in the tide has, however, taken place. . . . We may expect, then, to see a renewal of experiments in industrial partnerships by common business firms."* This was written in 1888, and the prophecy has been amply fulfilled. Since then twenty-eight firms have adopted the system, thus more than doubling the number using it, and giving it a rate of progress unparalleled in its history.

The Parliamentary Report on the subject published last January gives a full account of the present condition and recent progress of the movement in England, with some notes on the system in France and elsewhere. The Report gives a list of forty-seven firms in Great Britain who use the plan of pure, as distinguished from indeterminate, profit-sharing. Four of these adopted the system in 1888,† six in 1889, and

* Page 291.

† These are in addition to those given by Mr. Gilman for 1888.